

Small Business Administration

§ 142.2

142.11 How will the complaint be served?

PROCEDURES FOLLOWING SERVICE OF A COMPLAINT

142.12 How does a defendant respond to the complaint?

142.13 What happens if a defendant fails to file an answer?

142.14 What happens once an answer is filed?

HEARING PROVISIONS

142.15 What kind of hearing is contemplated?

142.16 At the hearing, what rights do the parties have?

142.17 What is the role of the ALJ?

142.18 Can the reviewing official or ALJ be disqualified?

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142.21 How will the hearing be conducted and who has the burden of proof?

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142.23 Are there limits on disclosure of documents or discovery?

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142.27 Are there sanctions for misconduct?

142.28 Where is the hearing held?

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DECISIONS AND APPEALS

142.30 How is the case decided?

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142.35 How does the Administrator dispose of an appeal?

142.36 Can I obtain judicial review?

142.37 What judicial review is available?

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142.39 How are civil penalties and assessments collected?

142.40 What if the investigation indicates criminal misconduct?

142.41 How does SBA protect the rights of defendants?

AUTHORITY: 15 U.S.C. 634(b); 31 U.S.C. 3803(g)(2).

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OVERVIEW AND DEFINITIONS

§ 142.1 Overview of regulations.

(a) *Statutory basis.* This part implements the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-3812 ("the Act"). The Act provides SBA and other federal agencies with an administrative remedy to impose civil penalties and assessments against persons making false claims and statements. The Act also provides due process protections to all persons who are subject to administrative proceedings under this part.

(b) *Possible remedies for program fraud.* In addition to any other penalty which may be prescribed by law, a person who submits, or causes to be submitted, a false claim or a false statement to SBA is subject to a civil penalty of not more than \$5,000 for each statement or claim, regardless of whether property, services, or money is actually delivered or paid by SBA. If SBA has made any payment, transferred property, or provided services in reliance on a false claim, the person submitting it is also subject to an assessment of not more than twice the amount of the false claim. This assessment is in lieu of damages sustained by SBA because of the false claim.

§ 142.2 What kind of conduct will result in program fraud enforcement?

(a) Any person who makes, or causes to be made, a false, fictitious, or fraudulent claim or written statement to SBA is subject to program fraud enforcement. A "person" means any individual, partnership, corporation, association, or other legal entity.

(b) If more than one person makes a false claim or statement, each person is liable for a civil penalty. If more than one person makes a false claim which has induced SBA to make payment, an assessment is imposed against each person. The liability of each such person to pay the assessment is joint and several, that is, each is responsible for the entire amount.

(c) No proof of specific intent to defraud is required to establish liability under this part.